S. HRG. 98-116

NOMINATIONS OF MARIA L. JOHNSON AND JOHN L. RYAN

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF MARIA L. JOHNSON TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD

AND THE

NOMINATION OF JOHN L. RYAN TO BE A MEMBER OF THE BOARD OF GOVERNORS, U.S. POSTAL SERVICE

APRIL 28, 1983

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NOMINATIONS OF MARIA L. JOHNSON AND JOHN L. RYAN

THURSDAY, APRIL 28, 1983

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 2:47 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Ted Stevens presiding.

Present: Senator Stevens.

Also present: Senator Murkowski and Representative Young.

OPENING REMARKS OF SENATOR STEVENS

Senator STEVENS. The committee will come to order.

I apologize for keeping you all waiting. I had an emergency dental appointment.

We are here to hold a hearing to consider the nomination of Maria Johnson to be a member of the Merit Systems Protection Board and John Ryan to serve as a member of the Board of Governors of the U.S. Postal Service.

I notice two strangers at the table with Ms. Johnson. I thought I would let them talk now.

Senator MURKOWSKI. I yield to the senior Congressman from Alaska. [Laughter.]

Representative YOUNG. I want to thank the chairman and the junior Senator from Alaska.

I am not here to make any formal presentation. I am very honored to have Maria nominated for this job she has been offered and accepting. Certainly, being an Alaskan resident, it gives me a great deal of pride to see the Alaskans given the chance to do the job that she can do.

I want to congratulate her at this time.

Ms. JOHNSON. Thank you, Congressman.

Senator MURKOWSKI. Thank you very much, Mr. Chairman and Congressman Young. I am sorry that my remarks perhaps are not as brief as yours.

I would like, though, to take the opportunity to introduce two people in the audience: Colonel Cherry, who is the fiancee of Ms. Johnson. Colonel?

And, coming from Italy, her grandmother, Mrs. Scotti.

Mrs. Scotti, would you be recognized?

Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR MURKOWSKI

Senator MURKOWSKI. The opportunity to introduce Maria Lucia Johnson is a rare occasion and a privilege for me. She has been nominated by the President to sit on the Merit System Protection Board. She will succeed Ersa H. Poston, and would serve a 7-year term expiring March 1, 1990.

Ms. Johnson has lived in Alaska, where she worked as a commercial loan officer in Anchorage; first at the First National Bank of Alaska and, later, at the Security National Bank of Alaska. Her analysis included startup of loans and underwriting and packaging commercial real estate loans.

Ms. Johnson is familiar with Washington. She attended Howard University and received her law degree from Georgetown University. She is an associate attorney in the District of Columbia law firm of Lambert, Griffin, and McGovern and served as a consultant on housing for the District of Columbia.

Even the ways of Capitol Hill are not a mystery to Ms. Johnson. From 1970 to 1972, she acted as a legislative aide and caseworker for Senator Vance Hartke of Indiana.

The Merit Systems Protection Board, on which Miss Johnson is selected to serve, is a three-member panel. Its duties include the adjudication of appeals against job actions taken against Federal civilian employees, including overview of the system and the Office of Personnel Management. The Board reports to Congress and to the President.

Maria Johnson's previous employment should be an advantage to her in her new duties. As a condominium specialist for the District of Columbia's Department of Housing, she was required to determine compliance with applicable laws and regulations to evaluate the relationship between the resources of the Government and community needs and objectives and to have a thorough knowledge of principles, administration, and due process of law. Her job also required receipt and investigation of complaints regarding violations of laws and regulations and periodic personal investigations into these complaints.

There are the skills which will assist her in performing her duties as a member of the Merit Systems Protection Board.

In summary, Mr. Chairman, I believe that Ms. Johnson is well qualified for the position for which she is nominated.

I have no hesitation in recommending her highly. Even more, it will be a great pleasure, and I join with my colleague, Representative Young, and the chairman in having the pleasure in seeing another Alaskan here in Washington. The success of Alaskans in such high positions can only go down to the credit of our State.

I thank you for the opportunity to introduce her to your committee, Mr. Chairman.

Senator STEVENS. Thank you very much, Congressman Young, Senator Murkowski.

Maria, it is not normal for all of the members of a congressional delegation to be with the nominees. [Laughter.]

There are so many of us, you understand, it is hard to get us all in one place.

I thank you gentlemen for coming with us.

If you like, you are welcome to stay, or we will be happy to excuse you at this point.

I would now like to ask Mr. Ryan to come forward and join Ms. Johnson.

Ms. JOHNSON. Thank you, Senator Murkowski and Congressman Young, for accompanying me here today.

Senator STEVENS. Thank you.

I want to welcome both of you here to the committee. To aid in the evaluation of the credentials of these nominees to serve in these positions, the committee has received information from the Office of Government Ethics and the FBI.

The nominees have filed responses to a biographical and financial questionnaire, and you have answered several prehearing questions.

Without objection, that information is going to be made a part of the committee records on this hearing.

[The biographical information, responses to prehearing questions, and responses to written questions follow:]

BIOGRAPHICAL INFORMATION, RESPONSES TO PREHEARING QUESTIONS, AND RESPONSES TO WRITTEN QUESTIONS

MARIA L. JOHNSON

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. Maria Lucia Johnson.

Question 2. Address: List current residence address and mailing address.

Answer. 1828 D. Street, N.E., Apt. 3, Washington, D.C. 20002. 8820 Cordell Circle, Apt. 3, Anchorage, Alaska 99502.

Question 3. Date and place of birth.

Answer. January 27, 1947. Livorno, Italy.

Question 4. Marital status: (Include maiden name of wife or husband's name.)

Answer. Single.

Question 5. Names and ages of children.

Answer. None.

Question 6. Education: List institution(s), dates attended, degree received, and date granted.

Answer. Howard University, Washington, D.C., 1965–1969, B.A. Georgetown University Law Center, Washington, D.C. 1972–1975, J.D.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. Security National Bank, Anchorage, Alaska, commercial loan officer, February 1, 1982 to September 10, 1982.

National Bank of Alaska, Anchorage, Alaska, commercial real estate loan officer, May 20, 1981 to January 15, 1982.

Lambert, Griffin and McGovern, Washington, D.C., associate attorney, August 7, 1979 to April 30, 1981.

Various temporary and part-time positions while a law student at Georgetown University Law Center, Washington, D.C., September 1972 to May 1975.

Lockheed Job Training Center, San Francisco, Calif., job training counselor, February 1970 to September 1970.

Question 8. Government Experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. Lieutenant, U.S. Naval Reserves, Judge Advocate General's Corps, December 1980 to present.

Equal Employment Opportunity Commission, Office of the Chairman, Washington, D.C., consultant, September 27, 1982 to present.

D.C. Department of Housing and Community Development, Washington, D.C., housing regulation specialist, April 10, 1978 to June 30, 1979.

D.C. Rental Accommodations Office, Washington, D.C., hearing examiner, August 1, 1977 to April 7, 1978.

Fairfax Village Condominiums, Inc., Washington, D.C., staff attorney, August 9, 1976 to August 1, 1977.

D.C. Department of Human Resources, Washington, D.C., legal assistant to the Director, November 1, 1974 to January 15, 1977.

U.S. Senator Vance Hartke, Washington, D.C., caseworker, September 8, 1971 to September 7, 1972.

San Francisco Head Start Program, San Francisco, Calif., community resources coordinator, January 1971 to August 1971.

U.S. Senator Vance Hartke, Washington, D.C., caseworker, May 1967 to January 31, 1970.

Question 9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. None.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. District of Columbia Bar; U.S. District Court for the District of Columbia; U.S. Supreme Court Bar; New Coalition for Economic and Social Change, Board Member.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

Answer. No offices held. Political contributions of $25 or less made to Republican candidates running for State and local offices in the State of Alaska.

Question 12. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding services or achievements.

Answer. Honors program, Howard University, 1965–66.

Question 13. Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. "Kicking the Poor: Rent Control in Washington, D.C.", published in the Journal of Contemporary Studies, vol. IV, No. 2, spring 1981.

Question 14. Speeches: Provide the committee with two copies of any formal speeches you have delivered during the last five years, which you have written copies of, and which are on topics relevant to the position for which you have been nominated.

Answer. None.

Question 15. Section: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) No.

(b) I feel affirmatively qualified for this appointment because of the experiences and insights I have gained as a member of the workforce on a full time and part-time basis over the last 22 years. During Law School and since graduation in 1975, I have specialized in the area of Administrative Law as an Administrator, Hearing Examiner and Private Attorney. My work history includes Federal and local government and private industry. I have been the employee and I have been the supervisor. These experiences have given me invaluable insight into the concerns and problems of both the employee and the supervisor.

As an Officr in the Judge Advocate General's Corps of the U.S. Naval Reserves, I have spent a considerable amount of time reviewing disciplinary actions against military personnel, while at the same time advising military personnel on their rights and protecting their interests.

The cumulative effects of these various experiences has taught me the necessity of maintaining an impartial and unbiased approach toward the enforcement of laws.

B. FINANCIAL INFORMATION (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or busine organization if you are confirmed by the Senate?

Answer. Yes.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. I plan to continue to fulfill my obligation as an officer in the U.S. Naval Reserve which will amount to a minimum of 200 hours a year, most of which will be performed during evenings and weekends.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. None.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer None.

Question 4. Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. None.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. None exist.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, Maria L. Johnson, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

April 19, 1983.

MARIA L. JOHNSON.

RESPONSES TO PREHEARING QUESTIONS

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1. Is there any issue currently under consideration by the Merit Systems Protection Board from which you may have to disqualify yourself? It so, please explain.

Answer. No.

Question 2. How were you selected to be nominated to serve as a Member of the Merit Systems Protection Board? (b) Were any conditions expressed, or implied, attached to your nomination?

(a) I do not know.

(b) No.

Question 3. Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as a Member of the Merit Systems Protection Board?

Answer. No.

Question 4. Why did you take this appointment to be a Member of the Merit Systems Protection Board?

Answer. It is an honor to be selected for this important position, and I have always felt that the governmental adjudicatory process is the area of law that is most responsive to the needs of the public.

Question 5. Why do you feel that you are particularly well qualified to serve in this position?

Answer. I feel qualified to serve in this position because of the experiences and insights I have gained prior to, during and since graduation from law school in 1975. Since graduation, I have specialized in the area of Administrative Law as an Administrator, Hearing Examiner, and private attorney. My work history include Federal and local government and private industry.

As an Officer in the Judge Advocate General Corps of the U.S. Naval Reserve, I have spent a considerable amount of time reviewing disciplinary actions against military personnel, while at the same time advising military personnel on their rights and protecting their interests.

The cumulative affects of these various experiences has taught me the necessity of maintaining an impartial and unbiased approach toward the enforcement of law.

II. THE MERIT SYSTEMS PROTECTION BOARD

Question 1. What is the role of the Merit Systems Protection Board?

Answer. The Board's primary role is to maintain through its authority under the CSRA, the integrity of the Federal personnel system by balancing the objectives of management with statutory protections provided to the employees who accomplish those objectives. It must, at the same time, ensure fairness and encourage efficiency in the Federal work force.

Question 2. What are the MSPB's most important functions?

Answer. (a) Protect the due process rights of employees and ensure that they are not subjected to prohibited personnel practices;

(b) Guarantee both employees and agencies that appeals will be processed in an expeditious and impartial manner; and

(c) Play an active role in protecting merit systems and merit principles from political and administrative abuse.

Question 3. What do you feel are the most important functions of the position to which you have been nominated?

I believe that the critical functions of a Member of the Board are to carry out the statutory responsibilities of the Board in both the adjudicatory and policymaking areas and to accomplish the Board's mission in conformance with the statutory requirements.

Question 4. How do you see the relationship between the MSPB and (a) the Office of Personnel Management; (b) the Federal Labor Relations Authority; and (c) the Office of Special Counsel to MSPB?

Answer. (a) It is important to recognize the distinctly different roles in the CSRA assigned to the Board and OPM. OPM is responsible for advising and assisting the President in the development of Federal personnel management policies and practices and for providing personnel management leadership to all Federal agencies. In contrast, the Board is an independent agency that is responsible for adjudicating cases arising under OPM policies and procedures, as well as other provisions of the Act. Furthermore, the Board conducts studies of the merit systems, examines significant OPM activities, and reviews the legality of OPM rules and regulations.

Because of these distinctly different roles, it is essential that the two perform our respective roles and duties in an autonomous fashion. However, the impact of each on the other cannot be ignored. It is imperative that the channels of communication be maintained without sacrificing the necessary autonomy, and with a recognition of the differing statutory assignments which we have.

(b) While the Federal Labor Relations Authority's functions are somewhat distinct from the Board's own responsibilities, a cooperative relationship needs to be maintained so that in situations where duties may overlap (such as allegations of prohibited personnel practices heard by the Board which also contain allegations of unfair labor practices normally considered by the FLRA) confusion to our constituents is minimized.

(c) The legislative history of the CSRA reveals Congress' intention to include the Office of Special Counsel as part of the Board but for the Special Counsel to perform investigative and prosecutorial duties in an independent manner.

The Act assigned differing responsibilities to the Board and the Special Counsel because of their respective adjudicatory and prosecutorial roles. This requires that in substantive areas an arms-length relationship be preserved. However, other areas such as administration and personnel management offer opportunities for mutual efforts without compromising the Special Counsel's functional autonomy which must be preserved.

Question 5. How do you see the relationship and responsibilities of the MSPB to the (a) the President; (b) the Congress; and (c) the executive agencies?

Answer. (a) I believe that the Board's relationship with the President should be one of cooperation in working to achieve a civil service system which is governed by merit principles and is responsive to the needs of the American people.

(b) Congress gave the Board its mandate, and in the fulfilment of our duties we share common goals with the Congress: protecting the merit system from political abuses, maintaining faith and confidence in the civil service system, and ensuring the effective operation of the merit principles in practice. It is our duty to work with the Congress in any way in which we can, consonant with these basic principles, to achieve these goals.

(c) As the Board processes appeals from Federal agencies promptly and fairly, we are meeting our obligation to those agencies. This allows Federal managers to improve the productivity and efficiency of the Federal work force while safeguarding the legitimate rights of employees, as the law envisions. At the same time, however, the Board expects other agencies to cooperate in following the Board's procedures, including the meeting of all time deadlines required for the expeditious handling of appeals and other actions. Congress gave the Board appropriate enforcement powers, which we have and will continue to exercise, as circumstances require. These include the use of subpoenas to develop necessary evidence, the issuance of stays to bar prohibited personnel practices, and the firm enforcement of Board orders.

III. THE CIVIL SERVICE REFORM ACT

Question 1. What do you feel are the most important principles of the Civil Service Reform Act?

I believe the most important principles of the Civil Service Reform Act are the ones which promote fairness, efficiency of the work force and an increased ability to manage effectively without these principles the objectives of a productive work force and an improved quality of public service cannot be attained.

Question 2. Do you feel that the Civil Service Reform Act offers too much, too little, or the appropriate amount of protection for the Federal employee?

Answer. I believe the Civil Service Reform Act is a sound platform from which it is reasonable to expect that fair treatment and adequate protection can be provided to Federal employees so long as its provisions are properly administered.

Question 3. Do you feel that any particular changes in the Act would be helpful toward carrying out the goals of the legislation?

Answer. The Board has recently proposed several changes to the CSRA which would, I believe, enhance its efforts of accomplishing its mission:

(1) Expanding the Board's subpoena power to permit the delegation of such power to presiding officials. The current limitation which authorizes only the Board members and the administrative law judges to issue subpoenas has proved to be a significant burden on the ALJ's and extremely time consuming.

(2) Limiting the amount of time allowed for filing an appeal with the Board when a mixed case discrimination complaint filed with an employing agency has not been resolved within a one-year period. Such provisions would eliminate the possibility of extremely stale appeals being filed without agency resolution of the complaint.

(3) Prohibiting the premature disclosure of survey data in response to FOIA requests. This would avoid the risk of studies becoming prejudiced by an untimely release of uncompiled and incomplete information.

(4) Maintaining uniformity in the jurisdiction of appeals of Board orders to the U.S. Court of Appeals for the Federal Circuit. Due to an oversight in drafting the Federal Courts Improvement Act, the Board's original jurisdiction cases are appealable to the various circuit courts around the country while final orders and decisions of the Board are appealable to the new Federal circuit. A technical amendment would restore uniformity by including original jurisdiction cases to the new court as well.

IV. RELATIONS WITH CONGRESS

Question 1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of the Congress if you are confirmed?

Answer. Yes.

RESPONSES OF MS. JOHNSON TO WRITTEN QUESTIONS SUBMITTED BY SENATOR LEVIN

Question 1. A major criticism levied against the Merit Systems Protection Board by federal employees is that it fails to protect the employment rights of civil servants. Do you think the current procedures for bringing a complaint to the Special Counsel and having the Special Counsel, after investigation, bring that complaint to the Merit Systems Protection Board are sufficient to protect employees rights?

Answer. I believe the existing statute provides a viable method for Federal employees to vigorously protect the rights to which they are entitled. Whether or not it has worked as effectively as Congress intended may be subject to debate but the mechanism certainly is there. I think additional time is necessary before any conclusions can be drawn.

Question 2. To what extent do you feel that the heads of Executive agencies should be involved in resolving personnel actions before the Board?

Answer. In my view, heads of Executive agencies should generally refrain from any direct involvement in the resolution of personnel actions before the Board. To do otherwise may tend to promote an impression of attempting to improperly influence the outcome of the appeal.

Question 3. Members of the Merit Systems Protection Board are responsible for the adjudication of personnel matters and the performance of studies of the merit systems. The Washington Post recently conducted a survey of Federal

employees and ran a portion of the results in last Tuesday's Federal Diary. Most of the comments from the Federal employees expressed extreme dissatisfaction with the Civil Service System. How would you, as a member of the Merit Systems Protection Board work to improve the morale of Federal employees?

Answer. It seems to me that my ability to improve the morale of Federal employees is limited basically to the opportunity of injecting a greater sense of confidence in the perception that the Federal work force has in its appeals system. There are a variety of elements which have contributed to the lowering of morale among Federal workers, but beyond striving for an effective method of adjudicating appeals fairly and expeditiously, the Board's role in improving such morale is certainly limited. As a Board member, I can only try to ensure that employees receive a fair shake. Establishing the overall policies which affect morale is reserved for the policymakers.

Question 4. How do you balance the need for the President to have his own team of policy makers within the Federal Government against the public's need for dedicated, experienced and a political career civil servants?

Answer. There is no question that a delicate balance must be struck between these competing concerns. Our country wants and deserves a system which is responsible to the leadership of its elected officials but, at the same time, insulated enough to ensure resistence to illegal or improper pressures. I believe that there should be enough control to facilitate the implementation of the administration's policies but still allow a level of loyalty that is able to respond to a change in administration.

JOHN L. RYAN

A. BIOGRAPHICAL INFORMATION

Question 1. Name (Include any former names used.

Answer. John L. Ryan.

Question 2. List current residence address and mailing address.

Answer. 102 Forest Boulevard, Indianapolis, Indiana 46240.

Question 3. Date and place of birth.

Answer. July 16, 1921;Indianapolis, Indiana.

Question 4. Marital Status: (Include maiden name of wife or husband's name.)

Answer. Married to Jane Noble Johnson.

Question 5. Names and ages of children.

Answer. No children.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Name of school	Dates	Degree	Degree date
Harvard College	1939–43	AB	1943
Deerfield Academy	1937–39	Diploma	1939
Park School (Indianapolis)	1930–37		

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer.

Name/employer	Date/employment	Title
Dean Bros. Pumps	1976 to date	President and chief executive officer, executive vice president.
Self-employed (Indianapolis)	1973–76	Consultant.
Postal Rate Commission	1971–73	Comm., chairman.
Indiana Public Service Commission	1969–70	Chairman.
Dean Bros. Pumps	1955–69	Executive vice president, various.
Eli Lilly & Co	1946–55	Economic research.
U.S. Army	1942–45	Corporal.

Question 8. Government experience: List any experience in, or association with Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. As (7) above indicates, I was Chairman of the Indiana Public Service Commission for almost two years, a Charter Commissioner and, for a brief time, Chairman of the Postal Rate Commission. In addition, I was head man of the Reagan U.S. Postal Service and Postal Rate Commission transition team. My participation in each of these jobs was "hands on." I am also a public member of the Administrative Conference of the United States, and a member and President of the Marion County Welfare Board.

Question 9. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. (a) Dean Brothers Pumps, Inc., Indianapolis, Ind.; President, Director and significant stockholder (my extended family controls about 20 percent of the stock.)

(b) Que Corp., Indianapolis, Ind. significant stockholder (about 5 percent).

(c) Argonaut Enterprises, Inc., Indianapolis, Ind.; President, Director and significant stockholder (50 percent).

(d) Potomac Hotel Ltd. Partnership, Bethesda, Md., a very limited partner.

(e) In Postal Rate Commission Docket Number MC–78–2, I was a consultant and professional witness for a group composed of: The March of Dimes, White Plains, N.Y.; American Lung Assoc., New York City, St. Judes Children's Research Hospital, Bethesda, Md.; National Easter Seal Society, Chicago, Ill.; and Epilepsy Foundation of America, Washington, D.C.

(f) I am a moderately active trader in stocks and allied investments almost entirely through Merrill Lynch, Inc., in Indianapolis.

(g) See (10) below for Trusteeships in educational enterprises.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable and other organizations.

Answer. Woodstock Club, Indianapolis; Atheneum Turners, Indianapolis; various Republican political groups; Hillsdale College, Board of Trustees; Intercollegiate Studies Institute, Board of Trustees; Philadelphia Society, Board of Trustees; and Eisenhower Memorial Scholarship Fund.

I "belong" to a large number of groups working in what may be called the Conservative vineyards in which my "membership" consists of subscribing to newsletters or making periodic contributions. I do not have any further role in their fortunes except to wish them well.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

Answer. I love politics and beginning in the late 1940's when I converted to a Republican, I have almost the whole time been involved in one aspect or another of the political process. My money contributions run to around $2,000 per year (see attached). I have raised money, walked the precincts, served on campaign committees, helped manage campaigns, done press and media work, been delegate, provided intelligence, and the like.

Question 12. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. I consider my appointment to the Chairmanship of the Indiana Public Service Commission, my appointment to be Commissioner and later Chairman of the Postal Rate Commission and my nomination for Governor of the U.S. Postal Services to be high honors. I received a bronze star medal during World War II for combat service. I have been President of the Philadelphia Society.

Question 13. Published writing: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Attached to this submission are: An essay published in the magazine Modern Age in the 1976 Summer issue; as essay published in the book "Electric Power Reform," by the University of Michigan in 1976; copy of testimony before the House Sub-Committee on Postal Service in January 1974; a copy of part of the transcript of a television program, "The Advocates," aired at various times in 1974; copy of a letter from John L. Ryan to James N. Hanley, Chairman Sub-Committee on Postal Service 1975.

I have written other articles and essays for the most part on the subject of the virtues of a free market as opposed to government regulation.

Question 14. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last five years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. My speeches have all been from skimpy notes or off the cuff, so I have no coherent material to submit. As in my writings, they strongly advocate the free market.

Question 15. Selection: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) I do not know why I was chosen for this nomination by the President.

(b) I believe that my experience both first hand and as a student in areas of government regulation and government maintained monopolies as well as some working knowledge of the U.S. Postal Service qualifies me for this particular appointment. I hope that my integrity, dedication to the rule of law, and candidness were also of help in my selection.

B. FINAL INFORMATION (RETAINED IN COMMITTEE FILE)

C. FUTURE EMPLOYMENT RELATIONSHIP

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. No.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. I plan to continue my current employment at Dean Brothers, my membership on Marion County Welfare Board, my presidency of Argonaut Enterprises Inc., and indeed, all of my current activities in addition to pursuing whatever non-conflicting opportunities present themselves, during my service with the government. However, I shall evaluate my responsibilities to the government that may transpire among my highest priorities.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. Depending somewhat on circumstances I plan to continue an active business life after completing government service including a close association with my present employer.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

Answer. I expect to continue as President and C.E.O. of Dean Brothers Pumps until time erodes my ability to function effectively. I also plan to keep up my other business and non-business interests. I see no rational interpretation of any of these suggesting a conflict of interest.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. I can conceive of none of any rational basis.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. I suppose my having served on the Postal Rate Commission could raise conflict of interest questions. In addition, I was a professional witness and consultant in Postal Rate Commission Docket Number MC78–2 to a group of non-profit third class mailers (see A.9.e above).

Question 4. Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. Many groups to which I make contributions are in the business of indirectly influencing the passage, defeat or modification of legislation. In addition, I write Congressmen and Senators at the drop of a hat usually hoping to change their minds or reinforce their determination respecting particular pieces of legislation. I have not lobbied at all, however, for such a purpose, in the normal use of that term.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. I will resolve any potential conflict of interest on the basis of (1) my personal honor; (2) the appropriate statute; (3) the official interpretation of the situation, in that order.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. As a member of the Marion County Welfare Board and formerly as a member of the Indiana Public Service Commission and the Postal Rate Commission I am, and have been, involved in a lot of administrative and some civil litigation. Dean Brothers Pumps, of which I have been an officer for some time has occasionally been involved in administrative proceedings involving the Internal Revenue Service, the Indiana Revenue Department, the National Labor Relations Board and the like. These matters have all been minor and of the nature of normal business exposure to government regulation. Dean Brothers has been joined on several occasions in product liability suits which also has become a normal business hazard.

Question 4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection wtih your nomination.

Answer. I know of none.

AFFIDAVIT

I, John L. Ryan, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

March 28, 1983.

JOHN L. RYAN.

DONNA L. HODGES,
Notary Public.

My commission expires May 18, 1985.

Responses to Prehearing Questions

I. Nomination Process and Potential Conflicts

Question 1. Were any conditions, expressed or implied, attached to your nomination to be a Governor of the United States Postal Service?

Answer. Only that I obey the law and do my best.

Question 2. What commitments have you made with respect to the policies and programs you will attempt to implement as a Member of the Board of Governors?

Answer. None.

Question 3. Are there any issues involving the Postal Service from which you may have to disqualify yourself? If so, please explain.

Answer. I know of none.

Question 4. Did you actively seek this nomination? Explain.

Answer. I wanted the appointment and let my interest in it be known to some friends. I did not actively pursue it in the sense of waging a campaign.

Question 5. What contribution do you feel you can make to the Postal Service as a Member of the Board of Governors?

Answer. Although I am far from being a postal expert, my experience on the Postal Rate Commission should accelerate my learning curve as a Governor as well as bring a somewhat different perspective to the deliberations of the Board. I do have a strong interest in the consumers of postal services, particularly individuals and small businesses, and will try to see to it that they are well represented in Board discussions and decisions. Familiarity with the somewhat arcane cost attribution theory may give my contributions on this subject particular value.

II. Responsibilities of the Board of Governors

Question 1. What is your view of the role of the Board of Governors of the Postal Service? What do you believe are its most important functions and responsibilities?

Answer. I believe the Board of Governors should first concern itself with the statute, particularly the Policy sections (101) and (202) but in a broader sense with the entire act. More specifically, they should act in much the same capacity as a board of directors, producing policy, making major operation and expenditure decisions, and being sure the Postmaster General adheres to programs for the benefit of the customers, the employees, the public at large and the Congress.

Question 2. How do you view the relationship of the Board of Governors to the Postal Service, and specifically, to the Postmaster General?

Answer. There is an indistinct line that separates the operating responsibility of the Postmaster General and the policy responsibility of the Board. Governors must exercise sound business judgment in drawing that line on any particular subject as they have the ultimate responsibility for the organization's management. They should elect a Postmaster General in whom they have confidence and give him enough room to operate effectively without providing the license for him to do as he pleases.

Question 3. How do you view the relationship and responsibilities of the Board of Governors to the President, the public and the Congress?

Answer. The Board must balance as best they can the views of the President and of the Congress but in the final analysis they have their own individual responsibility to the statute, to the Postal Service employees, to the customers, and they can best serve the public by using their own judgment.

III. Postal Reorganization

Question 1. Various proposals have been made to increase the accountability of the Postal Service to the Congress including Presidential appointment of the Postmaster General or the Chairman of the Board of Governors. How do you feel about these proposals?

Answer. I believe that the Governors are already accountable to the Congress as they should be. I do not believe that the Postmaster General should be selected by the President (nor the Chairman), as this separates authority from responsibility. It is the relationship between the Board and the Postmaster General which is crucial; without the authority to select or change the Postmaster General, the Board would be essentially advisory.

Question 2. The Postal Rate Commission is a unique regulatory agency in that it does not have final decision-making responsibility with respect to most matters brought before it. As you know, this responsibility rests with the Board of Governors of the Postal Service. Do you believe that this arrangement should be maintained? If so, why?

Answer. I do not believe final authority on rates and classification should be given to the Postal Rate Commission. Once again, this would separate responsibility from authority.

Question 3. Would you recommend any changes in the role and responsibilities of either the Postal Rate Commission or the Board of Governors?

Answer. Much money, time, and effort is wasted in proceedings before the Postal Rate Commission. On balance I fail to see that the Postal Rate Commission performs any major function that cannot be reproduced less expensively by different means. In short, I believe the Postal Rate Commission can be eliminated.

IV. POSTAL SERVICE OPERATIONS

Question 1. To what extent do you view the Postal Service as a public service appropriately financed out of the United States Treasury?

Answer. I believe every successful business is a public service with the public as the final arbiter on the value of the service rendered. The Postal Service should not be subsidized for performing the service the public is unwilling to pay for. If Congress decides that there are certain types of mailers that should be subsidized, I believe appropriate subsidies should be paid directly to such mailers, uncluttering the market place from the confusing rate structure now in existence.

V. RELATIONS WITH CONGRESS

Question 1. What suggestions do you have for strengthening the relationship of the Board of Governors to the Congress. Do you believe that this is necessary?

Answer. I do not know what is the current relationship between the Board and Congress, but I do not see the need for very strong ties. Congress makes the laws and the Board sees that the yare carried out. Certainly if Congress wants the views of the Governors collectively or individually they should be able to get them.

Question 2. Do you agree without reservation to respond to any reasonable request or summons to appear and testify before any duly constituted Committee of the Congress?

Answer. Within the statute, I would consider it an honor to be given the opportunity to testify before any portion of the United States Congress.

RESPONSES OF MR. RYAN TO WRITTEN QUESTIONS SUBMITTED BY SENATOR STEVENS

Question 1. In a hearing before the House Subcommittee on Postal Service in January of 1974, former Congressman Mallary of Vermont asked: "Would you feel it desirable to permit postal rates differentially for areas permit them to charge say $1 for First Class mail to Nome, Alaska, and 3¢ to New York City?" You replied: "Yes, I would and that is what I meant by the long sentence in there that had to do with restriction of the requirements of monopoly if we are to compete with them." Do you still feel that way?

Answer. I still believe that the marketplace is a better determinant of prices than the government; therefore I would not change my answer to Congressman Mallary's question except to make it more coherent.

A major principle of the 1970 Postal Act is that classes of mail carry their own costs; in other words inter class cross subsidies be minimized. I would carry that same principle intra class.

Question 2. For some time I have been concerned with the length of time and the cost involved in the completion of a postal rate case. Having been a member of the Rate Commission, would you agree that they are too long and costly? If so, what do you feel might be done to improve the process, short of abolishing it?

Answer. I certainly do agree that the time and cost of postal rate cases are too long and too costly. It is the nature of the administrative procedure and, short of removing the deliberations of the PRC from these requirements I know of no way to obtain significant improvement.

Question 3. One of the focal points of some of the critics of the current ratemaking process is the office of the commission within the Postal Rate Commission. This office is to represent the general public. In view of the fact that all of the commissioners are appointed by the President and confirmed by the Senate, I would have thought that they would in a general sense represent the public. What is your view of the Office of the Commission? Is it essential to the welfare of the general public in these ratemaking proceedings?

Answer. It is the nature of the process that the Office of the Commission at the PRC become another special interest. When a people need protection from their government (the ombudsman concept) it is because they already have too much government, not too little. The OCPRC is the classic case of a watchdog set to watch a watchdog which is watching a watchdog. It is not essential to the welfare of the general public. As you know, I feel much the same about the entire Postal Rate Commission.

Question 4. In your statement, you also made the point that "At the same time freeing the Postal Service itself from monopoly requirements." Do you mean that the Postal Service should not be required to deliver mail in every village and hamlet in the nation?

Answer. Yes, I do believe that it would be an improvement if the Postal Service were not required to serve every market under the larger condition that intraclass rates need not be cross subsidized. Under such condition, the smaller communities for the most part could be served at a "profit." Special situations could, if desirable, be directly subsidized by appropriation outside the orbit of the Postal Service.

Question 5. Mr. Ryan, when you were with the Postal Rate Commission, did you at that time feel that the postal service could "break even" as was required by the law? Since that time, the postal service has been very successful in not only breaking even financially but actually coming in with a surplus. Do you have any observations on why this has been possible?

Answer I have always believed that under the 1970 Act the Postal Service could break even, as required. It is the cost to ordinary mailers of doing so that troubled me when on the PRC, as it does now. Under monopoly protection the Postal Service has a cost plus zero contract. As a monopoly employer with a monopoly labor union, it seems to me inevitable that breaking even will be expensive to the captive users of the mails. It is the captive condition of the users that has enabled the Postal Service to break even.

Senator STEVENS. Our committee rules require that all witnesses at nomination hearings give their testimony under oath, so would you both please stand and raise your right hand?

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RYAN. I do.

Ms. JOHNSON. I do.

TESTIMONY OF MARIA L. JOHNSON, NOMINEE TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD; AND JOHN L. RYAN, NOMINEE TO BE A MEMBER OF THE BOARD OF GOVERNORS, U.S. POSTAL SERVICE

Senator STEVENS. Thank you very much.

As I have indicated, the committee's questions have been answered. Your answers are in the record.

Let me first turn to you, Maria Lucia Johnson of Anchorage, Alaska, nominee to the Merit System Protection Board.

That is your true and legal name now?

Ms. JOHNSON. That is, Senator.

Senator STEVENS. The Merit Systems Protection Board is an important agency, both symbolically and substantively. It is charged with protecting the rights and privileges of the 2.8 million individuals

employed by our Federal Government, and they are a group that this subcommittee is very vitally concerned about.

The Board is a three-member, bipartisan panel responsible for adjudicating appeals coming from job actions taken against Federal civilian employees.

In addition, the Board is responsible for reviewing the health of the Federal personnel system, including actions taken by OPM and for reporting to Congress and the President on its findings in these areas.

This agency is very important to the smooth funding of the Federal Government. Each member of the Board has a significant role in carrying out this mission.

I want to state, as my good friends, the Congressman and Senator have, that we have no question that Maria is well qualified.

We, I believe, will have a fine representation from her in this position. We do have some questions that I think have to be raised.

First, the questions that Senator Levin asked that I direct to you could be answered in written form in the record if you prefer to do that. They are in writing from Senator Levin.

Would you respond to these questions in writing?

Ms. JOHNSON. Yes.

Senator STEVENS. And give them to the staff of the committee?

Ms. JOHNSON. Yes, Mr. Chairman.

Senator STEVENS. We will place them in the record.[1]

I don't think that there is any problem with your Board that cannot be solved.

As you know, a $40,000 career civil servant just left that Board complaining that there was nothing to do.

Will you make certain that everyone down there is working?

Ms. JOHNSON. I will definitely make certain of that, Senator. [Laughter.]

Senator STEVENS. I would hope that someone on the Board will raise the question about civil service people being paid $40,000 a year that don't have anything to do and not leave it up to a civil servant to have to resign on the basis that there is nothing for him to do.

We don't believe that this Board is overstaffed if it is properly functioning, and we do believe that the Board ought to monitor the entire civil service and watch OPM closely and to make certain that the spirit of the law is being met as well as the absolute fine print of the law.

We expect the Board to investigate agency performance; appraisals systems, reassignments; reductions-in-force, or anything else that is involved in maintaining a competent and protected work force and to report to the Congress and to the President on this.

I don't expect you to report now to this committee on things that you feel about the Board. I think you ought to have the freedom to go to that Board without having been asked questions, but I do want everybody to know that since you are from my State and since I am chairman of the subcommittee, everybody is going to presume you are going to tell me what is going on anyway. [Laughter.]

So let's just make it formal, and I am going to request you to keep us informed as to how this Board is functioning and to give us your suggestion of what we can do if there is anything we can do to make

[1] See page 8.

it function as it was intended by Congress at the time we revamped the civil service system.

Will you do that for us?

Ms. JOHNSON. Mr. Chairman, I will be more than happy to keep you and this committee advised of what is happening with the Board once I am confirmed.

Senator STEVENS. Thank you very much.

If there are any questions in addition for you, we will submit them to you and do make the same request beyond those for Senator Levin. There may be other Senators who wish to submit questions.

Mr. Ryan, this is old home week, because I was born in Indianapolis, Ind.

Mr. RYAN. I know that.

Senator STEVENS. I am delighted to see another Hoosier before us.

You have been nominated to be a member of the Board of Governors of the Postal Service. It is one of the most visible and essential Federal agencies that we have.

Delivery of the mail was the second function, actually, established by our Founding Fathers, and, first, of course, was our common defense. In addition to meeting the communication and commercial needs, the Nation's Postal Service is the largest single civilian employer in the free world, and the Board of Governors has responsibility to see to it that the Postal Service lives up to their fundamental congressional and constitutional mandates to provide swift and reliable mail service to every American everywhere.

To us, every member of the Board of Governors is the key to assuring that this mandate is carried out.

I do believe that we have some questions again for you to respond to.

We would hope that you would respond to those in writing as we have asked Ms. Johnson to do.

Some of them are essential, I think, to our understanding of your role. I am compelled to ask you one, and it concerns a statement that I understand you made in the past about abolishing the private express statutes.

Do you feel that that is one of your mandates as far as your appointment to this assignment as to bring about the abolition of the private express statutes?

Mr. RYAN. No, sir, I don't think it is unattached, but it is certainly not one of my assignments. I think that the private express statutes are a matter which Congress treats itself with, and it is their business.

I feel there is little economic justification for the private express statutes, and that is what I have said publicly, and that is what I believe, and that is what you want to know.

Senator STEVENS. Those of us who represent rural States—and I don't think any State epitomizes that concept anymore than mine—feel strongly that without the private express statutes, we would be literally left at the post; that there would be no universal mail service, and we undoubtedly are going to have some disagreements down the line. But Hoosiers have been known to disagree before.

Mr. RYAN. Yes, sir.

Senator STEVENS. It is perfectly all right with me if we argue, as long as I win. [Laughter.]

Mr. RYAN. That is fair enough. I suspect you will. [Laughter.]

Senator STEVENS. The other questions, I think, I would like to see to it that you do respond for the record in a manner similar to the questions that we ask Miss Johnson.

Mr. RYAN. I will do so, sir.[1]

Senator STEVENS. I want to thank you both for appearing and want to—you know, the preclearance we do in appointments these days now takes a lot of the formality out of our hearings.

I hope you realize that, but we have to have the hearings in order to make the record.

So I want to thank you for the responses to the questionnaires.

They were full and complete, and I will recommend to the committee that we report your nominations to the Senate forthwith.

Thank you very much.

Mr. RYAN. Thank you, Senator.

Ms. JOHNSON. Thank you.

Senator STEVENS. The hearing is now recessed.

[Whereupon, at 3:05 p.m., the committee recessed, to reconvene at the call of the Chair.]

[1] See page 14.

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